

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DANIEL J. HARSHBARGER, et al.

Plaintiffs

CIVIL ACTION

NO. 12-6172

v.

**PENNSYLVANIA MUTUAL LIFE
INSURANCE COMPANY**

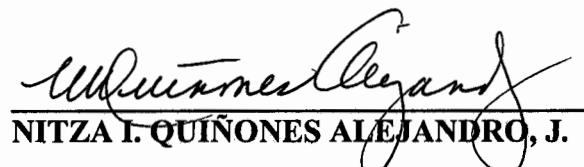
Defendant

:
:
:
:

RULE TO SHOW CAUSE ORDER

AND NOW, this 6th day of February 2015, a Rule is hereby issued to the parties to Show Cause why this matter should not be dismissed for failure to prosecute. Compliance with this Rule is due no later than **March 9, 2015**. Failure to do so shall be deemed a failure to prosecute and comply with a court order, and will result in the dismissal of this action.¹

BY THE COURT:


NITZA I. QUINONES ALEJANDRO, J.

¹ Pursuant to the primary jurisdiction doctrine, by Order dated April 11, 2014, this matter was stayed in deference to the Pennsylvania Department of Insurance (“the Department”), to allow said Department an opportunity to address issues raised by the Plaintiffs in their class action complaint, and, thus, avoid any conflicting rulings. *See United States v. W. Pac. R.R. Co.*, 352 U.S. 59, 64 (1956); *MCI Telecomms. Corp. v. Teleconcepts, Inc.*, 71 F.3d 1086, 1103 (3d Cir. 1995). [ECF 33, 34]. Plaintiffs’ motion for reconsideration and/or for certification of the April 11, 2014 Order under 28 U.S.C. §1292(b) was denied on May 16, 2014, and this Court continued to abstain from exercising jurisdiction in this matter in deference to the Department. [ECF 38].

In response to this Court’s informal status of the case inquiry, counsel for Defendant, on behalf of all parties, notified this Court on January 23, 2015, that the parties are still attempting “to reach agreement on the scope of issues to be presented to the Pennsylvania Insurance Department” and that “there are no formal proceedings currently pending before the Department.” Since more than nine (9) months have passed since this Court issued its abstention Order and Memorandum Opinion, and no proceeding is pending before the Department, it appears that the parties have little, if any, interest in resolving the dispute before this Court.